IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Criminal Application No.132 of 2007
In
Criminal Appeal No.139 of 2007

Appasaheb Malappa Gurav. .. Applicant (Orig.Accused)

v/s.

The State of Maharashtra .. Respondent

Mr.Shekhar A. Ingawale for Applicant.

Mrs.S.D.Shinde, APP for Respondent- State.

CORAM : DR.S. RADHAKRISHNAN &
SMT.ROSHAN DALVI, JJ.

Dated : 17th July, 2007

P.C. :

1. Heard the learned Counsel for the Applicant- Accused and the learned APP for the Respondent- State.

2. The Applicant- Accused has been convicted for the offence of murder punishable under Section 302 of the Indian Penal Code. The case of the prosecution was that the Applicant- Accused had poured kerosene on his wife and had set on

fire. Thereafter when the neighbours rushed to the residence of the Accused, he tried to put off the fire. The husband also sustained burn injuries and both were admitted to the hospital. It is the further case of the prosecution that the Accused-husband had threatened his wife not to disclose the true facts and that she should state that she was having lamp in her hand and while taking out kerosene bottle, the said bottle fell on her person and due to which, the said accident occurred. P.W.3-Smt.Sugandha Gurav, the mother of the deceased, reached Kolhapur and inquired from her daughter about the incident and the daughter had disclosed the correct fact that her husband Applicant-Accused had poured kerosene on her and set her on fire. Accordingly, P.W.3 had instructed her daughter to make a correct statement. When her statement was recorded as a dying declaration in the presence of doctor, he stated that she was conscious and normal mental faculty to make her statement. The said statement was recorded by the Police Officer who was not aware that the said statement

was recored in the presence of P.W.3-mother of the deceased and two other persons. Prima facie, there is nothing to indicate that the dying declaration should not be believed. This is not the case based on no legal evidence. Hence, we are not inclined to grant the bail in the above matter.

3. In the circumstances, the Bail Application stands dismissed. However, having regard to the facts and circumstances of the case, hearing of the above Appeal is expedited.

(**DR.S. RADHAKRISHNAN, J.)**

(ROSHAN DALVI, J.)